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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,116	02/20/2004	Phillip E. Schlangen	S324.12.5	1205
7590	12/16/2005		EXAMINER	
Richard O. Bartz Suite 350 6750 France Avenue South Edina, MN 55435			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	
			DATE MAILED: 12/16/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/783,116	SCHLANGEN, PHILLIP E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles N. Greenhut	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-37 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 7/27/04.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

### **I. Claim Objections**

1. Claims 1, 10, and 19 are objected to because the phrase, “a second beam movably mounted on the first beam to extended and contracted positions” is grammatically incorrect and requires rewording. I.e., the beam is not mounted *to* positions it is movable between positions.

### **II. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 35-36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claims 35 and 36 recite the limitation “the first member.” There is insufficient antecedent basis for this limitation.

### **III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim(s) 1-2, 9, 19-21, and 28 is/are rejected under 35 U.S.C. 102(e) as being anticipated by WILLIAMS (US 6,726,435 B1).

1.1. With respect to claim 1, WILLIAMS discloses a lift assembly (Fig. 2 providing movement C) upright first member (50), upright second member movably mounted on the first (54), linear actuator (Col. 3 Li. 61), platform (12), coupling mechanism (56), a transport assembly (Fig. 2 providing movement A), first beam (16), second beam movably mounted on the first (14), second linear actuator (48), and anchors (38).

1.2. With respect to claim 2, WILLIAMS additionally discloses tubular members and the first actuator therewithin (Col. 3 Li. 61).

1.3. With respect to claim 9, WILLIAMS additionally discloses box beams (16)/(14).

1.4. With respect to claim 19, WILLIAMS discloses a lift assembly (Fig. 2 providing movement C) upright first member (50), upright second member movably mounted on the first (54), linear actuator (Col. 3 Li. 61), platform (12), coupling mechanism (56), a transport assembly (Fig. 2 providing movement A), first beam (16), second beam movably mounted on the first (14), second linear actuator (48), and anchors (38).

1.5. With respect to claim 20, WILLIAMS additionally discloses tubular members and the first actuator therewithin (Col. 3 Li. 61).

1.6. With respect to claim 21, WILLIAMS additionally discloses a motor vehicle seat (Col 1. Li 27).

1.7. With respect to claim 28, WILLIAMS additionally discloses box beams (16)/(14).

2. Claim(s) 29-30, and 33-36 is/are rejected under 35 U.S.C. 102(b) as being anticipated by WILLEY (US 6,478,529 B1).

- 2.1. With respect to claim 29, WILLEY discloses a platform (46), lift (40), and headrest (84).
- 2.2. With respect to claim 30, WILLEY additionally discloses a coupling (69).
- 2.3. With respect to claim 33, WILLEY additionally discloses first and second upright tubular members (20)/(22) and a linear actuator (40).
- 2.4. With respect to claim 34, WILLEY additionally discloses the linear actuator located with the first and second tubular members (Fig. 2).
- 2.5. With respect to claim 35, WILLEY additionally discloses a headrest mounting member.
- 2.6. With respect to claim 36, WILLEY additionally discloses a horizontal member (82), connecting means (80) and an upright plate (Fig. 3).

#### **IV. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 3-4, and 22-23 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS (US 6,726,435 B1) in view of WILLEY (US 6,478,529 B1).

- 1.1. With respect to claim 3, WILLIAMS fails to teach a headrest. WILLEY teaches a headrest (84). It would have been obvious to one of ordinary skill in the art to modify

WILLIAMS with the headrest of WILLEY in order to promote the safety of the occupant.

- 1.2. With respect to claim 4, WILLIMAS fails to teach a horizontal member, connecting means and an upright plate. WILLEY teaches a horizontal member (82), connecting means (80) and an upright plate (Fig. 3). It would have been obvious to one of ordinary skill in the art to modify WILLIMAS with the headrest support members of WILLEY in order to ensure stability of the headrest.
- 1.3. With respect to claim 22, WILLIAMS fails to teach a headrest. WILLEY teaches a headrest (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the headrest of WILLEY in order to promote the safety of the occupant.
- 1.4. With respect to claim 23, WILLIMAS fails to teach a horizontal member, connecting means and an upright plate. WILLEY teaches a horizontal member (82), connecting means (80) and an upright plate (Fig. 3). It would have been obvious to one of ordinary skill in the art to modify WILLIMAS with the headrest support members of WILLEY in order to ensure stability of the headrest.

2. Claim(s) 5-6, 10-11, 14-15, 18, and 24-25 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS in view of MEYER (US 5,466,111 A).
  - 2.1. With respect to claim 5, WILLIAMS additionally teaches a plurality of holes. WILLIAMS fails to teach the holes accommodating anchors. MEYER teaches holes (87) accommodating anchors (84). It would have been obvious to one of ordinary

skill in the art to modify WILLIAMS with the holes accommodating anchors of MEYER in order to secure the platform while the vehicle is in motion.

2.2. With respect to claim 6, WILLIAMS fails to teach upright pins having upper ends located in said holes and huts threaded on the pins. MEYER teaches upright pins having ends located in the holes and nuts threaded thereon. It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the pins and nuts of MEYER in order to secure the platform to the support while the vehicle is in motion. While MEYER teaches the pins on a platform and holes on a support mounted to the vehicle, it would have been obvious to one of ordinary skill in the art to modify the arrangement to have the pins on the support and holes on the platform so as to minimize obstructions on the moving platform.

2.3. With respect to claim 10, WILLIAMS discloses a lift assembly (Fig. 2 providing movement C) upright first member (50), upright second member movably mounted on the first (54), linear actuator (Col. 3 Li. 61), platform (12), coupling mechanism (56), a transport assembly (Fig. 2 providing movement A), first beam (16), second beam movably mounted on the first (14), second linear actuator (48), and anchors (38). WILLIAMS fails to teach a drivers position. MEYER teaches a drivers position (Fig. 2). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the drivers position of MEYER to enable the occupant of the platform to operate the vehicle.

2.4. With respect to claim 11, WILLIAMS additionally discloses tubular members and the first actuator therewithin (Col. 3 Li. 61).

2.5. With respect to claim 14, WILLIAMS additionally teaches a plurality of holes.

WILLIAMS fails to teach the holes accommodating anchors. MEYER teaches holes (87) accommodating anchors (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the holes accommodating anchors of MEYER in order to secure the platform while the vehicle is in motion.

2.6. With respect to claim 15, WILLIAMS fails to teach upright pins having upper ends located in said holes and huts threaded on the pins. MEYER teaches upright pins having ends located in the holes and nuts threaded thereon. It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the pins and nuts of MEYER in order to secure the platform to the support while the vehicle is in motion. While MEYER teaches the pins on a platform and holes on a support mounted to the vehicle, it would have been obvious to one of ordinary skill in the art to modify the arrangement to have the pins on the support and holes on the platform so as to minimize obstructions on the moving platform.

2.7. With respect to claim 18, WILLIAMS additionally teaches box beams (16)/(14).

2.8. With respect to claim 24, WILLIAMS additionally teaches a plurality of holes. WILLIAMS fails to teach the holes accommodating anchors. MEYER teaches holes (87) accommodating anchors (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the holes accommodating anchors of MEYER in order to secure the platform while the vehicle is in motion.

2.9. With respect to claim 25, WILLIAMS fails to teach upright pins having upper ends located in said holes and huts threaded on the pins. MEYER teaches upright pins

having ends located in the holes and nuts threaded thereon. It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the pins and nuts of MEYER in order to secure the platform to the support while the vehicle is in motion. While MEYER teaches the pins on a platform and holes on a support mounted to the vehicle, it would have been obvious to one of ordinary skill in the art to modify the arrangement to have the pins on the support and holes on the platform so as to minimize obstructions on the moving platform.

3. Claim(s) 7-8, and 26-27 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS in view of VARRICCHIO (US 5,421,692 A)

3.1. With respect to claim 7, WILLIAMS fails to teach a horizontal slot and stop bolt. VARRICCHIO teaches a horizontal slot (12) and stop bolt (36). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the horizontal slot and stop bolt of VARRICCHIO in order to secure the wheelchair to the platform.

3.2. With respect to claim 8, WILLIAMS fails to teach a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth. VARRICCHIO teaches a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth (12).

3.3. With respect to claim 26, WILLIAMS fails to teach a horizontal slot and stop bolt. VARRICCHIO teaches a horizontal slot (12) and stop bolt (36). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the horizontal slot and stop bolt of VARRICCHIO in order to secure the wheelchair to the platform.

3.4. With respect to claim 27, WILLIAMS fails to teach a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth. VARRICCHIO teaches a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth (12).

4. Claim(s) 12-13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS in view of MEYER and WILLEY.

4.1. With respect to claim 12, WILLIAMS fails to teach a headrest. WILLEY teaches a headrest (84). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the headrest of WILLEY in order to promote the safety of the occupant.

4.2. With respect to claim 13, WILLIMAS fails to teach a horizontal member, connecting means and an upright plate. WILLEY teaches a horizontal member (82), connecting means (80) and an upright plate (Fig. 3). It would have been obvious to one of ordinary skill in the art to modify WILLIMAS with the headrest support members of WILLEY in order to ensure stability of the headrest.

5. Claim(s) 16-17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLIAMS in view of MEYER and VARRICCHIO.

5.1. With respect to claim 16, WILLIAMS fails to teach a horizontal slot and stop bolt. VARRICCHIO teaches a horizontal slot (12) and stop bolt (36). It would have been obvious to one of ordinary skill in the art to modify WILLIAMS with the horizontal slot and stop bolt of VARRICCHIO in order to secure the wheelchair to the platform.

5.2. With respect to claim 17, WILLIAMS fails to teach a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth. VARRICCHIO teaches a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth (12).

6. Claim(s) 31-32 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLEY in view of VARRICCHIO

6.1. With respect to claim 31, WILLEY fails to teach a horizontal slot and stop bolt. VARRICCHIO teaches a horizontal slot (12) and stop bolt (36). It would have been obvious to one of ordinary skill in the art to modify WILLEY with the horizontal slot and stop bolt of VARRICCHIO in order to secure the wheelchair to the platform.

6.2. With respect to claim 32, WILLEY fails to teach a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth. VARRICCHIO teaches a generally horizontal top wall having inwardly converging inside edges providing a generally V-shpaed mouth and a linear slot open to the mouth (12).

7. Claim(s) 37 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WILLEY

7.1. With respect to claim 37, WILLEY additionally teaches a pair of pads (74)/(84). It would have been obvious to one of ordinary skill in the art to mount the pair of pads on the plate to provide additional head support.

## **V. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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